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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/951,832	10/16/97	LINA C	06-2916.312

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EXAMINER	
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ART UNIT	**PAPER NUMBER**
3308	

DATE MAILED: 03/02/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
08/951,832	Lina et al.
Examiner	**Group Art Unit**
Dennis Ruhl	3308

☒ Responsive to communication(s) filed on *Oct 16, 1997* .

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-15* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) *13* is/are allowed.

☒ Claim(s) *1-12, 14, and 15* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). *11*

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "the dressing". What does this refer to? No dressing has been claimed in claim 1. Is this part of the combination? This is unclear. Correction is required.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3,5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuntz (WO 93/09736) in view of Denty et al. (4,402,687).

With respect to claims 1,5, Kuntz discloses a pad 21, tube 33, canister 35, suction pump 37. The tubing 33 is attached to the pad 21 by an interference fit. Kuntz does not disclose a bacterial filter between the canister and the suction pump. Denty discloses a suction collection system where in column 2, lines 48-58 it is disclosed that there is a bacterial filter in tubing 32 (between the collection vessel and the suction pump) that prevents harmful bacteria from entering the suction pump and also prevents bacteria from entering the collection vessel from the vacuum pump. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Kuntz with a bacterial filter as disclosed by Denty so that harmful

bacteria is prevented from entering the suction pump and also prevents bacteria from entering the collection vessel from the vacuum pump.

With respect to claim 2, Kuntz does not disclose the bacterial filter as being in the canister. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the filter inside the canister of Kuntz since applicant has not disclosed that this arrangement solves any stated problem or is for any particular purpose and it appears the invention would perform equally well with the filter in the tubing between the canister and the suction pump.

With respect to claim 3, the canister of Kuntz is removably attached to the pump housing by tube 39.

With respect to claims 6-8, applicant has no criticality for the claimed type of pad. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide such since applicant has not disclosed that this pad solves any stated problem or is for any particular purpose and it appears the invention would perform equally well with the another type of pad.

4. Claims 4,9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuntz in view of Denty as applied to claim 1 above, and further in view of Martin (4,631,061).

With respect to claim 4, Kuntz does not disclose the canister as being received in a recess of a housing. Martin discloses a portable fluid collection system that has all of the system components housed in a single portable carrier housing 72. See figure 4 of Martin. The canister

is housed in a recess in the housing 72. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the system of Kuntz portable as a single unit as disclosed by Martin in figure 4. This would result in a single portable unit that housed all the components of the system, with the canister effectively being housed in a recess.

With respect to claim 9, Kuntz discloses a pad 21, tube 33, canister 35, suction pump 37. The tubing 33 is attached to the pad 21 by an interference fit. Kuntz does not disclose a bacterial filter between the canister and the suction pump. Kuntz also does not disclose a sensor that detects when the canister is full of fluid and can shut off the suction pump when the canister if full. Denty discloses a suction collection system where in column 2, lines 48-58 it is disclosed that there is a bacterial filter in tubing 32 (between the collection vessel and the suction pump) that prevents harmful bacteria from entering the suction pump and also prevents bacteria from entering the collection vessel from the vacuum pump. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Kuntz with a bacterial filter as disclosed by Denty so that harmful bacteria is prevented from entering the suction pump and also prevents bacteria from entering the collection vessel from the vacuum pump. Martin discloses a safety sensor 40 for the canister that senses when the canister is full of fluid and will turn off the pump when this condition is sensed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Kuntz with a safety sensor as disclosed by Martin that can detect when the canister is full and can turn off the suction pump when the canister is sensed as being full.

With respect to claim 10, Kuntz and Martin do not disclose a capacitance sensor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide such since applicant has not disclosed that a capacitance sensor solves any stated problem or is for any particular purpose and it appears the invention would perform equally well with the sensor used by Martin.

With respect to claim 11, the apparatus of Kuntz is adapted for continuous or intermittent operation in the sense that the system can be turned on and off to supply intermittent suction or can be left on to apply continuous suction.

5. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuntz in view of Denty in view of Martin (4,631,061) in view of Kurtz et al. (4,605,400).

With respect to claim 12, Kuntz does not disclose the system as having a bleed device to relieve excess negative pressure in the system. Kurtz et al. discloses a suction drainage apparatus that has a negative pressure relief valve 130 that is used to relieve any excess negative pressures that occur in operation. Excess pressures may harm the patient. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Kuntz with a bleed device as disclosed by Kurtz. et al. so that excess negative pressures in the system can be relieved.

6. Claims 14,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols (4,460,361) in view of Holbrook (3,804,090). Nichols discloses the invention substantially as claimed. Nichols discloses a plastic container 14, inlet 40, outlet 18. See column 3, lines 36-42

for the disclosure of the bacterial filter. The examiner considers the deflector to be the portion of 40 that is protruding into the interior of container 14. Nichols does not disclose the container as having an anti-foaming substance in the container. Holbrook discloses a device that allows the addition of a foam reducing substance into a vacuum fluid collection system. Holbrook discloses that when collecting blood and other body fluids, the fluids may form a foam that will prevent accurate reading of the amount of collected fluid as well as possibly contaminating the vacuum pump with the foam. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of Nichols with an anti-foaming substance as disclosed by Holbrook to help reduce the foaming of collected fluids so that accurate readings of the amount of fluid collected can be done, as well as preventing possible vacuum pump contamination.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols in view of Holbrook as applied to claim 14 above and further in view of Bryant et al. (5,234,419). Nichols discloses the invention substantially as claimed. Nichols does not disclose the container as having a gel forming substance that immobilizes collected fluid. Bryant discloses a suction system that has a waste treating material added into the container that includes a germicide and an absorbent powder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of Nichols with a waste treating material as disclosed by Bryant so that the collected fluids can be treated with a germicidal agent as well as a powder absorbent to help immobilize collected fluids.

8. Claim 13 is allowed.

9. This is a FWC of applicant's earlier Application No. 08/517,901. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is (703) 308-2262.

D.R. DR

February 26, 1998

JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
GROUP 3300